IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SMT JUSTICE T.MEENA KUMARI

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WRIT PETITION NO : 19036 of 1995

Between:

1 SUNKARI LAXMI BAI W/O SUNKARI BALAIAH
R/O BATTI SAWARGOAN VILLAGE ADILABAD
2 BATHULA LASMIAH S/O BATHULA ASHANNA
R/O BATTI SAWARGOAN VILLAGE ADILABAD

..... PETITIONERS

AND

1 THE DISTRICT COLLECTOR , ADILABAD
2 THE REVENUE DIVISIONAL OFFICER, ADILABAD
3 THE MANDAL REVENUE OFFICER , ADILABAD

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ order or directions more particularly one in the nature of writ of Mandamus directing the respondents herein not to dispossess the petitioners from their respective agricultural lands ie.,(1) agricultural land to the extent of 5 acres situated in s.no.72/40 of petitioner no.1, (2) agricultural land to the extent of 5 acres 5 guntas situated in s.no.72/36 of petitioner no.2 at Batti Sawargaon village mandal and District Adilabad and also declare the proceedings of the 2nd respondent herein vide proc.no.c/222/90, dt 23/5/1994 is illegal, arbitrary and violating article 14, 300-a of the Constitution of India.

Counsel for the Petitioner: MR.S.CHANDRASEKHAR

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

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ORDER :

This writ petition is filed seeking a direction to the respondents herein not to dispossess the petitioners from their respective agricultural lands ie.,(1) agricultural land to the extent of 5 acres situated in S.No.72/40 of petitioner no.1, (2) agricultural land to the extent of 5 acres 5 guntas situated in S.No.72/36 of petitioner No.2 at Batti Sawargaon village, Mandal, Adilabad District and also to declare the proceedings of the 2nd respondent herein vide proc.no.c/222/90, dt 23/5/1994 as illegal, and arbitrary.

The brief contents of the affidavit filed in support of the writ petition are as follows:

It is stated that that the 1st petitioner purchased the agricultural land to a total extent of Ac.5.00 situated in Sy.No.72/40 of Batti Sawargaon village from one Kistanna on 11-02-1973 under a written sale deed and is in exclusive possession of the same, but due to illiteracy he could not get it registered. The 2nd petitioner is the absolute owner and exclusive possessor of the agricultural land to the total extent of 5 acres and 5 guntas situated in Sy.No. 72/36 and about 35 years back the same was being assigned to the 2nd petitioner by the respondents and since then the 2nd petitioner is continuously in possession and cultivating said lands which also reflect in the pahani patrikas issued by the 3rd respondent herein and also by paying the taxes. It is also stated that though the 1st petitioner made several representations for mutation in revenue record, the 3rd respondent did not give any reply. The 2nd petitioner though did not contravene any assignment rules, the respondents have cancelled the assignments, without following due process of law and without giving any notice to the petitioners.

It is the further case of the petitioners that on 15-8-1995 the 2nd respondent issued proceedings No. G/2702/95, directing the Mandal Revenue Inspectors to prepare the land from Sy.No.72/11 for the purpose of house sites to the weaker sections. When the Revenue people tried to enter into the lands of the petitioners, they objected for the same. Later, the petitioners came to know, on enquiry, that the 3rd respondent resumed their lands through his proceedings No. C/2229/90, dt. 23.5.1994, for which they were not served with any notices. As such the proceedings of the 3rd

respondent dt. 23-5-1995, without giving any prior notice to the petitioners, is contrary to the provisions of A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 and hence the said proceedings are liable to be quashed. It is further stated that under the guise of the above orders of the 1st respondent, the deputed Mandal Revenue Inspectors are illegally entering into their lands and putting stones here and there and causing damages to the well grown crops on the land. Hence, the writ petition.

Counter affidavit has been filed on behalf of the respondents stating that an extent of Ac 5.00 cents of Government land in Sy.No. 72/40 of Sawargaon village was assigned in favour of Kisthanna in the year 1969 and it was in his occupation up to 1972 and thereafter the said land is in occupation and possession of the first petitioner herein by way of purchase but the original assignee is still continued as pattedar in revenue records and the first petitioner is shown as cultivator up to 1990 and thereafter the land was kept fallow. It is further stated that under the proceedings of the 3rd respondent 23-5-1994 the said land was resumed under the Government Custody under a cover of Panchanama, dated 27-5-1994 as it was a clear case of violation of conditions of assignment. The land was resumed only on violation of condition of assignment by way of selling the assigned lands and keeping the lands fallow but not on the ground of distribution of house site pattas and that the Government has liberty to utilize its land for public purpose for which the petitioner cannot question.

It is further stated that an extent of 5.00 Acs of land in Sy.No. 72/36 of Sawargaon village was assigned in favour of 2nd petitioner in the year 1968 in terms of GOMs.No.1406 of 1958 and he cultivated the same till 1990 and thereafter kept fallow the land and as such it became clear violation of the conditions of the assignment rules and hence the 3rd respondent through his proceedings dated 27-5-1994 ordered for resumption of the said land and kept into Government custody under cover of Panchanama. It is further stated that a Division Bench of this Court in its judgment dated 08-8-1980 in W.P.No.2500/78 held that the provisions of the Sec.3 of the Act 9 of 1977 (Andhra Pradesh Assigned Lands(Prohibition of Transfer Act,),1977) shall have retrospective effect not only assignments but also transfers made prior to the commencement of the said Act and hence the purchase of assigned land by the writ petitioners is void and violative of the conditions of Assignment. Since the lands in question are not acquired, the question of payment

of any compensation does not arise. It is also stated that since these lands are assigned lands, according to assignment rules, the original assignees or their successors should have to cultivate the land assigned to them, but, contrary to the conditions of the assignment rules, the original assignees sold away these lands and kept fallow without cultivation. Hence, the respondents sought for dismissal of the writ petition.

Heard the learned counsel on either side.

I have perused the material available on record. As could be seen from the rival contentions, the lands in question are the assigned lands and subsequently, they were kept fallow. According to the respondents, keeping of the assigned lands fallow, amounts to violation of the conditions of agreement. On account of that, the said lands were resumed and if that being the case, the action of the respondents in resuming the said assigned lands on the ground of violation of the conditions therein does not amount to acquisition of lands.

It is also seen from the rival contentions that the land in question was in the first instance assigned to one Kistanna and subsequently, it was sold to the 1st petitioner. In this regard, it is relevant to note that a Division Bench of this Court has made it clear while disposing of a writ petition in W.P.No:2500 of 1978 that the provisions of section 3 of the Act 9 of 1977 (A.P. Assigned Lands (Prohibition of Transfer Act, 1977) shall have retrospective effect not only in respect of assignments but also in respect of transfers made prior to the commencement of the said Act and hence the purchase of assigned land by the writ petitioners, is void and violative of conditions of assignment.

In the facts and circumstances of the case and in view of the principles laid down by a Division Bench of this Court in respect of the assignment lands, I am of the view that the claim made by the petitioners that their lands are going to be acquired without following any due process of law, holds no water and accordingly, I see no merits in this writ petition.

In the result, the writ petition is dismissed. No costs.

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(T. MEENA KUMARI, J)

Dt 30-12-2004

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To

1 THE DISTRICT COLLECTOR, ADILABAD
2 THE REVENUE DIVISIONAL OFFICER, ADILABAD
3 THE MANDAL REVENUE OFFICER , ADILABAD

4 Two CCs to GP for Revenue, High Court Buildings, Hyderabad (OUT)

5 Two CD copies.